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June 18, 2015

VIA ECF

Honorable Leonard D. Wexler, U.S.D.J.
United States District Court
Eastern District of New York
944 Federal Plaza
Central Islip, New York 11722

Re: Gelb v. Ockovic, et al
Index No CV 15 1928 (LDW) (GRB)

Dear Judge Wexler:

Our law firm represents defendants, The Albertson Water District, The Board of Commissioners of the Albertson Water District, Richard Ockovic, Howard Abbondandolo, and Kenneth Vey (collectively, the “AWD” defendants) in the captioned litigation. The AWD defendants join the letter, dated June 11, 2015, by the Town of North Hempstead defendants, to the extent that letter sets forth inadequacies in plaintiff’s pleadings and that the complaint should be dismissed pursuant to the abstention doctrine. We respectfully join in requesting that the Court deny the plaintiff’s application to file a motion and, in the alternative, set a pre-motion conference regarding motion practice by all defendants to dismiss under the doctrine of abstention. We also join the letter, dated June 18, 2015, by the Town of North Hempstead defendants, regarding scheduling of the conference.

This matter involves plaintiff’s contention that he is entitled to lifetime health benefits from the AWD after serving only six years as a part-time water commissioner (less than six hours per week) for the AWD. The issues in the case have been briefed before the Supreme Court where plaintiff’s petition for expedited relief is currently pending. (Supreme Court, Nassau County, Index No. 1203/2015). A resolution, dated September 17, 1981 of the AWD, states that the AWD elects to participate in the State Employees Health Insurance Plan (“NYSHIP”) and that such participation is “...subject to and in accordance with the provisions of Article XI of the Civil Service Law and the regulations governing the State Health Insurance Plan.” Interpretation of 4 NYCRR 73.2, titled “Eligibility”, and other New York State rules and regulations governing state pension funds, are at issue. We respectfully submit that abstention is appropriate under

both the Colorado River and Burford doctrines. Colorado River Water Conservation District v. United States, 424 U.S. 800 (U.S. 1976).

For these reasons, it is respectfully requested that plaintiff's application be denied or that a conference be scheduled to set a briefing schedule.

Respectfully submitted,

FAUST GOETZ SCHENKER & BLEE

By: /s/ 
Andrew M. Roher (AR9698)

cc: (by regular mail)
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